

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In Re:

Shahla Tehrani

Debtor.

**NOTICE OF MOTION FOR
TERMINATION OF AUTOMATIC STAY**

Case No.: 17-73170-reg
(Chapter 11)

Assigned to:
Hon. Robert E. Grossman
Bankruptcy Judge


Please take notice that Rushmore Loan Management Services, LLC as servicing agent for MTGLQ Investors, LP, a secured creditor of Debtor, by the undersigned attorneys, will move this Court on April 23, 2018 at 1:30pm or as soon thereafter as counsel can be heard, at the United States Bankruptcy Court, 290 Federal Plaza, Central Islip, NY 11722 for an Order pursuant to 11 U.S.C. §362(d)(1) terminating the automatic stay as to movant's interest in real property commonly known as 785 Bryant Avenue, Roslyn Harbor, NY 11576, and for any other relief as the Court may deem proper.

PURSUANT TO LOCAL BANKRUPTCY RULE 9006-1(a), ANY ANSWERING PAPERS ARE TO BE SERVED SO AS TO BE RECEIVED BY THE SECURED CREDITOR'S COUNSEL NO LATER THAN 7 DAYS BEFORE THE HEARING DATE.

DATED: March 28, 2018
Williamsville, New York

Yours,

By:



Courtney R Williams, Esq.
GROSS POLOWY, LLC
Attorneys for Secured Creditor
Rushmore Loan Management Services, LLC as
servicing agent for MTGLQ Investors, LP
1775 Wehrle Drive, Suite 100
Williamsville, NY 14221
Telephone (716)204-1700

TO:

Shahla Tehrani
c/o Kathrin Tehrani
43-19 Van Dam Street
Long Island City, NY 11101

Debtor

Saeid Tehrant
785 Bryant Avenue
Roslyn Harbor, NY 11576

Co-Debtor

Pankaj Malik, Esq.
Warshaw Burstein, LLP
555 5th Avenue, 11th Floor
New York, NY 10017

Attorney for Debtor

Vincent J Roldan, Esq.
Ballon Stoll Bader & Nadler P.C.
729 Seventh Avenue, 17th Floor
New York, NY 10017

Attorney for Debtor

U.S Trustee
Office of the United States Trustee
U.S. Federal Office Building
201 Varick Street, Suite 1006
New York, NY 10014

U.S. Trustee

Bank of America
115 6th Avenue, 17th Floor
New York, NY 10036

Creditor

Ben Terrany
864 Gooseneck Point Road
Ocean Port, NY 07757

Creditor

Fleet Simgad Corp
43-19 Van Dam Street
Long Island City, NY 11101

Creditor

Keyport Inc.
172-13 Hillside Avenue, Suite 201
Jamaica, NY 11432

Creditor

Online Collections GRVL
685 W. Fire Tower Road
Winterville, NC 28590

Creditor

Fein, Such & Crane, LLP
Attorneys for Movant Rushmore Loan
Management Services LLC, as servicer
for MTGLQ Investors, LP
1400 Old Country Road, Suite C103
Westbury, NY 11590

Creditor Attorney

Davidson Fink LLP
Attorneys for Secured Creditor
28 East Main Street, Suite 1170
Rochester, NY 14614

Creditor Attorney

Rosicki, Rosicki & Associates, P.C.
Attorneys for U.S. Bank Trust, N.A.,
as Trustee for LSF9 Master Participation Trust
Email: bkmail@rosicki.com

Creditor Attorney

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

AFFIRMATION

In Re:

Case No.: 17-73170-reg
(Chapter 11)

Shahla Tehrani

Debtor.

Assigned to:
Hon Robert E. Grossman
Bankruptcy Judge

I, Courtney R Williams, Esq. am an attorney duly licensed to practice law in the Courts of this State and in the United States Bankruptcy Court for the Eastern District of New York and hereby state as follows:

1. I submit the within Affirmation under penalty of perjury in support of the motion of Rushmore Loan Management Services, LLC as servicing agent for MTGLQ Investors, LP ("Secured Creditor"), a Secured Creditor of the above-referenced Debtor, to terminate the automatic stay in this case with respect to the real property commonly known as 785 Bryant Avenue, Roslyn Harbor, NY 11576.

2. Secured Creditor is the holder of a note executed by Saeid Tehrani on or about the 20th day of August, 2008 in the principal amount of \$1,294,500.00 and interest (the "Note"), secured by a mortgage bearing even date therewith, which is recorded in the Office of the Nassau County Clerk on the 12th day of September, 2009 in Liber M 33240 of Mortgages at Page 645 (the "Mortgage") covering the premises commonly known as 785 Bryant Avenue, Roslyn Harbor, NY 11576 (the "Mortgaged Premises"). A copy of the Note, Mortgage and Assignment, is annexed hereto as **Exhibit 'A'**. Prior to submission of the herein motion, an attorney from Gross Polowy LLC reviewed the original note and certified that the attached Note is a complete and true copy.

3. On the 16th day of May, 2017 Debtor Shahla Tehrani filed a Petition under Chapter 11 of Title 11 U.S.C. §101 et seq with this Court, and an Order for relief was duly entered.

4. The Note and Mortgage provide that the Debtor will be in default if they do not make full

monthly payments on each due date. As of March 15, 2018, the Debtor is due for 9 payments in the amount of \$10,238.59 each for the months of June 1, 2017 to February 1, 2018 and 1 payment in the amount of \$10,288.44 for the month of March 1, 2018 and has not cured said default. Furthermore, 1 payment due on April 1, 2018 will be due at the date this motion is heard. A Motion for Relief from Stay Worksheet is attached hereto as **Exhibit 'B'**.

5. As of the 15th day of March, 2018 there is a total indebtedness on the Note and Mortgage in the sum of \$2,310,487.75. Interest on the unpaid principal balance will continue to accrue, and to protect its security in the Mortgaged Premises Secured Creditor may be required to make advances for property taxes, insurance and related matters.

6. Based on the Debtor's Schedules attached hereto as **Exhibit 'C'**, said real property is valued at \$1,340,982.00. Based on the Secured Creditor's lien amount and the value of the Mortgaged Premises, there is no equity in the premises.

7. Section 362(d)(1) of the Bankruptcy Code provides in pertinent part that the court shall grant relief from the stay imposed by Section 362(a) "for cause, including lack of adequate protection of an interest in property..." As set forth above, cause exists to vacate the automatic stay as Secured Creditor's interests are not adequately protected as there exists no equity in the Mortgaged Premises.

8. Section 362(d)(2) of the Bankruptcy Code provides in pertinent part that the Court shall grant relief from stay imposed by Section 362(a) if "(A) the debtor does not have equity in such property; and (B) such property is not necessary to an effective reorganization." See, 11 U.S.C § 362(d)(2)(A)-(B). Therefore, the Secured Creditor is entitled to relief pursuant to 11 U.S.C § 362(d)(2) as there exists no equity in the Premises after Secured Creditor's lien and the Mortgaged Premises are not necessary to an effective reorganization.

9. A copy of a proposed Order granting the relief sought by Secured Creditor is annexed hereto as **Exhibit 'D'**.

10. No prior application has been made for the relief requested herein.

WHEREFORE, Secured Creditor respectfully requests that an Order be granted terminating the automatic stay immediately as to Secured Creditor's interest in the Mortgaged Premises together with such other, further and different relief as the Court may deem just in this matter.

DATED: March 28, 2018
Williamsville, New York

Yours,

By:



Courtney R Williams, Esq.

GROSS POLOWY, LLC

Attorneys for Secured Creditor

Rushmore Loan Management Services, LLC as
servicing agent for MTGLQ Investors, LP

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